

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION

3 UNITED STATES OF AMERICA)

4 v.)

) Docket No. 5:22-cr-00461-JKP-1

5 ALEJANDRO RICHARD VELASQUEZ)
6 GOMEZ,)
Defendant.)

) San Antonio, Texas
) August 16, 2022
)

7
8 TRANSCRIPT OF PRELIMINARY HEARING AND DETENTION HEARING
9 BEFORE THE HONORABLE RICHARD B. FARRER
UNITED STATES MAGISTRATE JUDGE

10 A P P E A R A N C E S:

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21
22
23
24
25

INDEX

PAGE

FREDDIE MILLER

Direct Examination by Mr. Stephenson5

Cross-Examination by Ms. Roth25

1 (10:40 a.m.)

2 THE CLERK: United States of America v. Alejandro
3 Richard Velasquez Gomez, SA:22-MJ-1210.

4 THE COURT: Counsel, your appearances, please.

5 MR. STEPHENSON: Good morning, Your Honor. Kelly
6 Stephenson on behalf of the United States.

7 MS. ROTH: Good morning. Molly Roth for Alejandro
8 Velasquez.

9 THE COURT: Good morning to you both.

10 Ms. Roth, I have you set on the calendar for a preliminary
11 hearing and detention hearing. Are we proceeding with both?

12 MS. ROTH: We are, Your Honor.

13 THE COURT: Okay. Let me just note for the record
14 that in accordance with Federal Rule of Criminal Procedure 5(f)
15 and the Due Process Protections Act the government is hereby
16 notified of and ordered to comply with the prosecutor's
17 disclosure obligations under *Brady v. Maryland* and its progeny.

18 The government is further notified of the possible
19 consequences of violating this order or those obligations,
20 which may include delay of trial or other proceedings,
21 exclusion of evidence, giving of adverse jury instructions,
22 grant of a new trial, dismissal of the action or a finding of
23 contempt.

24 Mr. Gomez, we're here first to address the preliminary
25 hearing, which is a probable cause hearing. You've been

1 charged by way of a criminal complaint -- that's the charging
2 document -- with two offenses.

3 The first is threatening interstate communications, in
4 violation of Title 18 of United States Code Section 875(c).

5 The second is possession of child pornography, in violation
6 of Title 18, United States Code, Section 2252A(a) (5) (B).

7 So the first part of this hearing will be a probable cause
8 hearing to determine whether there's probable cause to believe
9 an offense has been committed and the defendant committed it.
10 If there is a finding of probable cause, I'll order that you be
11 held over and answer to those charges in the district court.
12 And then we'll move on to the question of your release on bond
13 and whether and to what extent that is available to you in this
14 case.

15 Why don't I turn things over to Mr. Stephenson with the
16 government for the government's case on probable cause. If
17 you'd like to introduce evidence that informs the detention
18 issue as well, that's fine with me, as long as there's no
19 objection from Ms. Roth.

20 MS. ROTH: No objection, Your Honor.

21 THE COURT: Okay. And that -- we can do that just to
22 streamline things.

23 Why don't you go ahead, Mr. Stephenson.

24 MR. STEPHENSON: Absolutely. The government calls
25 Agent Miller.

Freddie Miller - Direct

1 *(The oath was administered)*

2 THE CLERK: You may be seated.

3 FREDDIE MILLER, GOVERNMENT'S WITNESS, SWORN

4 DIRECT EXAMINATION

5 BY MR. STEPHENSON:

6 Q. Good morning, Agent Miller. Can you provide your full name
7 for the record, please.

8 A. Freddie Charles Miller.

9 Q. And how are you employed?

10 A. I'm a special agent with Homeland Security Investigations,
11 and I am assigned presently as a task force officer at the FBI.

12 Q. And can you tell me which task force you're assigned to?

13 A. I'm assigned to the JTTF, the Joint Terrorism Task Force,
14 specifically the Domestic Terrorism Squad.

15 Q. And can you describe just very briefly your experience and
16 qualifications as it relates to domestic terrorism.

17 A. Absolutely. I have been assigned to the FBI Domestic
18 Terrorism Squad for approximately eight months. In those eight
19 months I've had the opportunity to participate in
20 investigations related to a variety of domestic terrorism
21 issues, anything from individuals who are -- who are inclining
22 themselves towards mass shootings or threatening communications
23 over the internet.

24 Q. And have you received specialized training?

25 A. I have received, throughout my career, a variety of

Freddie Miller - Direct

1 training and have recently also attended JTTF training.

2 Q. And do you also have experience or training relevant to
3 child pornography investigations?

4 A. I do. Yes, sir.

5 Q. Can you briefly describe that for me as well?

6 A. Absolutely. As a Homeland Security Investigations special
7 agent, I was assigned to the Child Exploitation Unit for 12
8 years. And during those 12 years I had the opportunity to
9 investigate these types of crimes.

10 Q. Okay. And "these types of crimes" being child pornography?

11 A. Yes, sir.

12 Q. Okay. And are you familiar with the criminal complaint for
13 arrest in this case?

14 A. I am.

15 MR. STEPHENSON: Your Honor, may I approach and
16 provide a copy of the complaint?

17 THE COURT: Yes, you may.

18 BY MR. STEPHENSON:

19 Q. I'd like to talk to you first about the parts of this
20 complaint that deal with the threat case, the 875(c). Can you
21 describe for me when that threat was made?

22 MS. ROTH: Your Honor, I'm sorry. I note that this is
23 public record, the affidavit to the complaint. But it's not
24 written or sworn out by this witness. And so if -- I would at
25 least like to hear more about the relationship about why we're

Freddie Miller - Direct

1 testifying from a probable cause affidavit instead of just his
2 personal knowledge and what's --

3 THE COURT: Okay.

4 MS. ROTH: We all have the complaint to be read before
5 us, but we're hearing testimony about that and about the
6 underlying facts. And so it's odd that this witness would be
7 handed a copy of the complaint to refer to, when it's not
8 written by this witness.

9 THE COURT: Okay. Well, why don't you lay your
10 foundation, Mr. Stephenson. And, obviously, we're interested
11 in eliciting testimony of the witness's, you know, personal
12 knowledge.

13 MR. STEPHENSON: Understood, Your Honor. I'm not
14 intending to call him to read -- have him read the complaint.

15 THE COURT: Great. Thanks.

16 BY MR. STEPHENSON:

17 Q. How are you familiar with this complaint?

18 A. I am a member of the DT Squad at the FBI, and I have worked
19 very closely with all of the agents that have been involved
20 with this investigation.

21 Q. Prior to this complaint, had you worked on the search
22 warrants that preceded this complaint -- or the investigation
23 that was part of those search warrants?

24 A. I did work on the investigation that led up to the -- to
25 the issuance of the search warrant --

Freddie Miller - Direct

1 Q. Okay.

2 A. -- on this investigation.

3 Q. So were you involved in this case prior to this complaint
4 being filed?

5 A. I was.

6 Q. Did you contribute any information that you think was --
7 formed the basis of this complaint?

8 A. Absolutely. I participated in investigative research and
9 surveillance, and I did have a role. Absolutely.

10 Q. Okay. In addition, have you spoken to the affiant for this
11 complaint?

12 A. Yes.

13 Q. In detail or just passing conversation?

14 A. We have collaborated throughout this entire investigation.

15 MR. STEPHENSON: Okay. Ms. Roth, any -- may I
16 continue?

17 MS. ROTH: That's --

18 THE COURT: Seems okay.

19 MS. ROTH: That's the Court's call. But I -- thank
20 you -- I appreciate that. I don't have an objection for
21 purposes of this --

22 THE COURT: Yeah. I think he's laid the
23 foundation you were looking for.

24 MS. ROTH: Yes. Thank you.

25

Freddie Miller - Direct

1 BY MR. STEPHENSON:

2 Q. Okay. Let me ask again. So we're talking about the
3 events. When was the -- when was the threat described in this
4 complaint made?

5 A. On July 18th, 2022, an Instagram post was posted by a user
6 identified as the LatinoZoomer. And the law enforcement became
7 aware of this post on the following day, July the 19th, 2022,
8 of this year.

9 Q. And can you describe for me the content of the post?

10 A. Absolutely. The post depicts a picture of a young man. We
11 know this young man to be Mr. Velasquez. And the text of the
12 post reads, at the very top, "LatinoZoomer." And it reads,
13 "Hi. LatinoZoomer here. July 22nd is the day of retribution,
14 the day I will have revenge against all humanity, which all of
15 you will pay for my suffering. SAS will be the turning point
16 of the LatinoZoomer lore."

17 And then it concludes with an emoji of a pistol, a handgun
18 and three like huffing or angry faces.

19 Q. And I'm going to ask you some more questions about the
20 contents of that post. But, first, how do you know that this
21 post was made by the defendant, Mr. Velasquez?

22 A. Well, as soon as this post became -- as soon as law
23 enforcement became aware of this post, law enforcement
24 immediately began to conduct law enforcement queries. We --
25 law enforcement FBI also contacted Instagram where this post

Freddie Miller - Direct

1 was made. And as a result of an emergency disclosure request,
2 Instagram was able to provide identifiers, which led and
3 directed law enforcement to the identity of the LatinoZoomer,
4 which is, in fact, Alejandro Velasquez.

5 Q. And fast-forwarding a little bit in time, did law
6 enforcement ever have a chance to confirm whether Mr. Velasquez
7 made this with him, with Mr. Velasquez himself?

8 A. Yes, sir.

9 Q. And what was the -- what was the conclusion?

10 A. During an interview with Mr. Velasquez, he himself stated
11 that he made this post.

12 Q. Okay. I'd like to refer back -- when you were reading the
13 post, you put emphasis on a few words, "retribution,"
14 "revenge," things like that. Can you tell me, what is the
15 significance of those -- of those words that you emphasized?

16 A. Absolutely. Based on my conversations, my reading of law
17 enforcement reports and, once again, discussions with other law
18 enforcement officers, I was able to recognize those particular
19 words as being a message -- a reflection of a message that was
20 posted by incel mass shooter Elliot Rodger.

21 Q. And can you tell me, what is an incel?

22 A. An incel is a subset, a subculture of domestic violence
23 extremism. Incel is an abbreviation for involuntary celibate.
24 And basically this subset of individuals base their ideology on
25 frustration with their inability to obtain and maintain

Freddie Miller - Direct

1 relationships with the opposite sex, in other words, unable to
2 establish relationships with women, with girls.

3 And the ideology is really fueled by these individuals'
4 hatred towards women. They have very misogynistic attitudes
5 towards women and are very much wanting to exert their power,
6 their control, their influence over women.

7 Q. And to your knowledge has the defendant ever
8 self-identified as an incel?

9 A. He has.

10 Q. And what's your basis for that?

11 A. As a result of the review of evidence obtained in this
12 investigation, I observed where the LatinoZoomer -- he
13 describes himself with a variety of words, and one of those
14 being incel.

15 Q. And a reminder, LatinoZoomer is the defendant,
16 Mr. Velasquez?

17 A. It is. Yes, sir, he is.

18 Q. And you also mentioned Elliot Rodger. What's the
19 significance of Elliot Rodger?

20 A. Elliot Rodger was a mass shooter. He committed a terror
21 attack in 2014, in which six individuals -- six individuals
22 were killed and 14 injured as a result of shooting, stabbing
23 and ramming with cars. At the very end of his terroristic
24 crime spree, he killed himself.

25 Q. And what is the connection between Elliot Rodger and

Freddie Miller - Direct

1 incels?

2 A. Well, Elliot Rodger has -- as a result of that -- of that
3 terroristic event, he has become an icon, an avatar of the
4 incel ideology.

5 Q. And so in the context of this -- of this post, how do you
6 interpret -- at a high level how do you view this post as a
7 threat?

8 A. During the Elliot Rodger attack he paused and created a
9 video, which he uploaded onto the internet. He titled it,
10 "Elliot Rodger Retribution." And in this video he makes the
11 following statement. He says, "Tomorrow is the day of
12 retribution, the day in which I will have my revenge against
13 humanity, against all of you."

14 And so there's keywords in that Elliot Rodger' statement
15 that are a reflection of the words in the LatinoZoomer post,
16 which was posted by Mr. Velasquez.

17 Q. Understood.

18 So in that context what do you see this post to be
19 threatening specifically?

20 A. Violence at a particular conference, the SAS conference,
21 which was two days following the date of this post.

22 Q. Okay. Understood.

23 And as to the SAS conference, what is the SAS conference to
24 your knowledge?

25 A. SAS stands for Student Action Summit. It's a conference

Freddie Miller - Direct

1 that is sponsored by the Turning Point USA group. It's a
2 conference which -- the focal point is politics. There are
3 various speakers who present. And attendees for the most part
4 range -- the SAS attracts, for the most part, a younger crowd,
5 anywhere between the ages of 16, 17, all the way maybe to the
6 mid 20s. But that's who specifically this conference attracts,
7 the SAS conference.

8 Q. And I apologize if you said this already. Is that -- was
9 that conference held in Texas or somewhere else?

10 A. The conference was held in Tampa, Florida, on July 22nd
11 through the 24th of this year.

12 Q. And do you know if anyone associated with that conference
13 received this threat?

14 A. Yes.

15 Q. And how do you know that?

16 A. The FBI contacted SAS to advise them of this threat, and
17 SAS personnel advised the FBI that they were already aware that
18 their social media liaison individuals, that are associated
19 with SAS, that they had become aware of the threat. And they
20 themselves had already contacted the police in Tampa as well as
21 San Antonio Police Department here in San Antonio, Texas.

22 Q. Okay. Understood.

23 And in addition, did you learn anything else about the
24 defendant's connections to SAS?

25 A. Yes. Through our law -- as a way -- by way of our

Freddie Miller - Direct

1 investigation, law enforcement learned that Mr. Velasquez had
2 obtained his ticket to attend the conference, he had already
3 obtained that, and that he had already purchased tickets --
4 round-trip tickets from Austin, Texas, to Tampa Bay, Florida,
5 in order to attend the conference. In addition, our
6 investigation revealed images of Mr. Velasquez holding his pass
7 to the conference.

8 Q. Okay. And that was -- so just to be clear, a plane ticket
9 to fly from Austin to Tampa?

10 A. Yes, sir.

11 Q. Okay. And did you learn what, if any, actions SAS took?
12 You mentioned that they called -- that they notified law
13 enforcement. Any additional actions that they took?

14 A. Yes. Absolutely. SAS, as a result of the perceived threat
15 on their part and in addition to contacting law enforcement,
16 they canceled Mr. Velasquez's ticket to attend the conference.

17 Q. Okay. And I want to ask questions about how others --
18 we've talked a little bit about how SAS viewed this threat when
19 they received it. Can you tell me how many others who viewed
20 his post might have viewed it --

21 A. Absolutely.

22 Q. -- contemporaneously?

23 A. Absolutely. So after the post was made by Mr. Velasquez,
24 the post in which he indicates the day of his retribution --
25 subsequent to that, individuals posted comments. And one

Freddie Miller - Direct

1 individual advised Mr. Velasquez that he had alerted the FBI.

2 Q. Understood.

3 And lastly on this -- on this particular topic, do you --
4 do you have a way of knowing what the defendant -- or some of
5 what the defendant might have known about Elliot Rodger and the
6 significance of Elliot Rodger at the time?

7 A. Yes, sir.

8 Q. Can you describe that to me?

9 A. Absolutely. As a result of the investigation and the
10 review of evidence that was obtained from a cellphone that was
11 seized from him, law enforcement was able to identify numerous
12 searches on the phone for Elliot Rodgers, picture -- searches
13 for an Elliot Rodgers manifesto, which was the manifesto that I
14 just -- that I read earlier.

15 There were searches -- there were searches for the victims.
16 There was various images of Elliot Rodgers that were contained
17 on the phone, to include an app image -- it's a face-merging
18 app in which one can take the face of one individual and then
19 the face of another individual and merge them, to see what they
20 would look like combined, the end result.

21 And there is -- we did find an image of Elliot Rodger in
22 one window, next to a window image of Mr. Velasquez, with, down
23 below, a third image, their faces combined, what a combination
24 of Elliot Rodger and Alejandro Velasquez would look like.

25 Q. And so in sum on that point, how would you describe the

Freddie Miller - Direct

1 defendant's familiarity with Elliot Rodger?

2 A. He very much associated and related himself to Elliot
3 Rodger and the incel cause and ideology.

4 Q. Okay. Thank you.

5 I'm going to move now to talk (inaudible) more about the
6 charges involving child pornography.

7 A. Okay.

8 Q. Let me ask, how did -- how did law enforcement come to
9 obtain the defendant's cellphone?

10 A. At the time of the -- of the interview, which occurred on
11 July 22nd, in the morning, law enforcement had a search warrant
12 for Mr. Velasquez's home, specifically for electronic devices,
13 in this case a cellphone.

14 At the time of the execution of the search warrant, law
15 enforcement sat down with Mr. Velasquez in order to discuss
16 these matters with him. He provided a statement. As part of
17 that statement he advised that the phone that he had in his
18 custody was, in fact, his cellphone, which was password
19 protected. He unlocked it for law enforcement and turned it
20 over to FBI agents.

21 Q. And so are you confident that the phone that you reviewed
22 in this investigation is, in fact, his cellphone?

23 A. Yes, sir. That exact same -- that very same cellphone was
24 then transported to FBI offices, and a mirror image was made of
25 the contents of the phone.

Freddie Miller - Direct

1 Q. And have you had occasion to review the contents of that
2 phone?

3 A. I have.

4 Q. And can you describe some of the relevant findings?

5 A. Absolutely. On that phone I have observed multiple
6 self-descriptions from Mr. Velasquez comparing himself to a
7 groomer. He has the online persona of LatinoZoomer, but he
8 also created a sub-persona of an individual that he himself
9 called and identified as the LatinoGroomer.

10 Q. I'll come back to that. But let me first -- were there
11 images on that phone that formed the basis of this complaint?

12 A. Yes, sir. Absolutely.

13 Q. Have you yourself personally seen those images?

14 A. I have.

15 Q. At a very high level, can you --

16 MR. STEPHENSON: Your Honor, I would -- I can have him
17 read the description of the images into the record. I believe
18 the Court has the complaint. I can forgo reading that into the
19 record if that's okay with the Court and defense.

20 THE COURT: That's fine with me.

21 Ms. Roth, do you have any objection to that?

22 MS. ROTH: No. I would prefer that. We all have a
23 copy of the complaint.

24 THE COURT: Okay. And I have the complaint here up on
25 the bench with me. So --

Freddie Miller - Direct

1 MR. STEPHENSON: Okay. Thank you, Your Honor.

2 And thank you, defense.

3 BY MR. STEPHENSON:

4 Q. Let me just ask, at a high level, the images that form the
5 basis of this complaint, do you have any doubt that they are,
6 in fact, children or minors?

7 A. Based on my experience investigating child exploitation
8 cases, I know -- I know these to be children. But I know,
9 based on the ages of the children depicted in these images of
10 child exploitation, that any reasonable person would be able to
11 ascertain that, in fact -- that these images depict the sexual
12 abuse of minors.

13 Q. And so just an age range -- without describing in detail
14 the images, what age range of children are we talking about
15 here?

16 A. Prepubescent, from two to five.

17 Q. Okay. And as to whether or not the images are images of
18 pornography or child pornography, any doubt, based on your 12
19 years of experience, that these are child pornography -- that
20 these images constitute child pornography?

21 A. They are 100 percent child pornography.

22 Q. And without -- again, without asking you to get into
23 detail, any doubt that they contain sexually explicit conduct?
24 Are there -- are there genitals visible?

25 A. They are.

Freddie Miller - Direct

1 Q. Are there children's genitals visible?

2 A. Yes.

3 Q. Are there adults' genitals visible?

4 A. Yes.

5 Q. Okay. That's all I have on that level of detail for that
6 topic.

7 And do you have any insight, based on your review, as to
8 how these images might have gotten onto his phone?

9 A. Based on what -- the evidence I've reviewed, they're
10 screenshots.

11 Q. And what is the significance of a screenshot?

12 A. A screenshot is an image that appears on a cellphone. And
13 on various devices there is options to take a capture, a still
14 capture of what is on the screen of a phone. In this case what
15 I observed was a screenshot capture, a color picture of the
16 contents of the face of the phone.

17 Q. And in your experience what does that tell you about where
18 he might have obtained these images?

19 A. From the internet.

20 Q. Okay. And --

21 A. Yes.

22 Q. -- in your experience, training is internet a conduit of
23 commerce?

24 A. Yes, sir.

25 MR. STEPHENSON: Okay. Your Honor, I'm going to

Freddie Miller - Direct

1 direct the remainder of my questions to the issues I think that
2 more closely focus on dangerousness to the community, unless we
3 want to bifurcate. Happy to do it now.

4 THE COURT: Why don't you proceed. And if Ms. Roth
5 would prefer to do it a different way, I'm sure she'll let us
6 know.

7 MS. ROTH: No objection, Your Honor.

8 BY MR. STEPHENSON:

9 Q. Okay. Let me ask, who else lives in the home with
10 Mr. Velasquez?

11 A. I'm aware of his father, his mother and a 12-year-old
12 sister.

13 Q. And how -- the 12-year-old sister, can you tell me, has the
14 defendant ever expressed any sexual preferences for young
15 females?

16 A. Yes. As I have reviewed the contents of the phone, whether
17 they be screen captures or the images on the phone, texts,
18 chats, I've observed where Mr. Velasquez, as he's chatting, as
19 he's talking to people, he's indicating that he is a groomer;
20 that he has -- he self-describes himself as a groomer; that he
21 has interest in 13-, 14-, 15-year-old girls. He even describes
22 himself in one of the -- one of the chats as he himself looking
23 younger than 18, thereby giving him access to these types of --
24 these children, these youth.

25 Q. Can you just describe a little bit more what you mean by

Freddie Miller - Direct

1 "groomer"? What does that term mean?

2 A. Yes. A groomer is a term in which an individual, whether
3 it's online or in person, is preparing a child for a sexual
4 relationship.

5 Q. And we'll come back to that in a little bit more detail.
6 But let me also ask, is there -- in addition to the 12-year-old
7 sister, are there any other -- does the defendant have any
8 other access to young children based on his current residence?

9 A. He does.

10 Q. Can you describe that to me?

11 A. Absolutely. Mr. Velasquez's home, the street backs up to
12 an elementary school. As the crow flies, his front door is 40
13 yards from the back of the school.

14 Q. Okay. And you said that was an elementary school?

15 A. That is an elementary school.

16 Q. And let me ask, returning back to the -- to the groomer,
17 have you seen any memes or selfies that tell you more about his
18 self-identification as a groomer?

19 A. Absolutely. There's multiple. But two that pop into my
20 mind at this very moment are a meme in which -- and it's a
21 two-window meme. At the top is a picture, and it reads,
22 PetSmart -- I paraphrase -- I'm paraphrasing this. PetSmart is
23 looking for experienced groomers.

24 The second window of this meme contains an image of
25 Mr. Velasquez holding his hands up. And he's -- and he's

Freddie Miller - Direct

1 stating, I paraphrase, That sounds like the perfect job for me.

2 And I'm aware -- I recollect another image. And this is
3 actually a selfie taken by Mr. Velasquez. A selfie is an image
4 that is taken with one's own cellphone. And from the -- from
5 the direction and the angle, I can tell that Mr. Velasquez is
6 holding the phone out. His face is on one side of -- is
7 depicted on one side of the image. And in the background are
8 three children, elementary school age children, wearing
9 backpacks. They're standing in front of a sign that reads
10 Candlewood Elementary School.

11 Q. And is that the elementary school that's adjacent to his
12 house?

13 A. It's the very same.

14 Q. Okay.

15 A. And the name of that particular TikTok selfie is called
16 "LatinoGroomer Moment."

17 Q. And let me ask, are you aware of any -- outside of this
18 particular case, are you aware of any other complaints
19 involving similar issues involving this defendant?

20 A. Yes, sir.

21 Q. Can you describe that to me?

22 A. Sure. Earlier this year, in May, the FBI received a tip in
23 which the LatinoZoomer had solicited -- online solicited a
24 child, a 13-year-old child.

25 Q. Without going into graphic detail, can you describe to me

Freddie Miller - Direct

1 what that solicitation involved?

2 A. Absolutely. There's an image, and it's an image that is
3 focused on the groin area of a male. There's an erect penis, a
4 hand holding the penis. In the background is some tiling and a
5 wall that is colored blue, along with some trim.

6 Q. Did you recognize that background from anything?

7 A. I do.

8 Q. What was it?

9 A. That background -- I had opportunity to go to the house on
10 a subsequent search warrant. And I located the bathroom of
11 that -- of the residence. And that very same tile and wall and
12 trim is the very same that's depicted in that image.

13 The conversation in that image, continuing on the post, and
14 I paraphrase, the LatinoZoomer says, Mr. Velasquez, Suck this,
15 referring to the penis.

16 And the response is, I can't. I'm not 18 years old yet.

17 And then the response to that is, Wow. I paraphrase once
18 again. That's a long time from now.

19 Q. Okay. Understood.

20 And let me ask, in the course of your investigation have
21 you and law enforcement had occasion to interact with
22 Mr. Velasquez's parents?

23 A. Yes.

24 Q. And can you describe those interactions?

25 A. Yes. I've had -- the Velasquez home is a home in which the

Freddie Miller - Direct

1 father is a very hard-working man and spends a lot of time
2 working outside the home, making a living for his family. The
3 mother is a stay-at-home mom. She may work from the home, but
4 she stays home primarily. Mr. Velasquez is in the construction
5 or painting, handyman-type business and, of course, is out
6 working many hours, providing for his family.

7 Mrs. Velasquez, as I mentioned, stays at home. And I mean
8 no disrespect to Mrs. Velasquez whatsoever. But she -- despite
9 the fact that she is a stay-at-home mother, she has a lot on
10 her plate and is -- by the disarray of the home, it is very
11 evident and obvious that she has a lot going on. She's not
12 able to upkeep and maintain the home.

13 Q. Were you able to view any communications between the
14 defendant and his mother when you looked at his phone?

15 A. Yes.

16 Q. How would you characterize those communications?

17 A. I was advised by other agents, as they were view -- were
18 viewing texts and chats, that they had observed a conversation
19 between mom and dad in which Mr. Velasquez is very, very
20 disrespectful of his mother and very commanding and demanding
21 on her. And just the context of the -- of the chats and the
22 discussions, they depict a young man who's very much in control
23 of and even looking down and being disrespectful to his mother.

24 Q. Does he appear to listen to the directions or rules that
25 she provides for him?

Freddie Miller - Cross

1 A. No.

2 MR. STEPHENSON: Okay. Your Honor, I pass the
3 witness.

4 MS. ROTH: May I have one moment to speak with my
5 client?

6 THE COURT: Yes.

7 *(Discussion off the record)*

8 CROSS-EXAMINATION

9 BY MS. ROTH:

10 Q. Agent Miller, if we could start where you just left off.
11 You talked about disrespectful evidence found on the phone?

12 A. Yes, ma'am.

13 Q. You didn't observe any communications between Mr. Velasquez
14 and his mother, correct?

15 A. No.

16 Q. So the messages that you were referencing were texts to
17 other people?

18 A. They were -- they were texts that were sent from mom --
19 from his mother to himself. I recollect one specifically in
20 which mother is asking Mr. Velasquez, Alejandro, to clean his
21 room, and he's responding in a very disrespectful manner.

22 I remember -- I'm aware of another text conversation that
23 they exchanged between themselves. It was after 10:00 at
24 night. And the text message was to the effect, I'm hungry.
25 Make me food right now, in a very demanding manner.

Freddie Miller - Cross

1 Q. And those were texts between whom?

2 A. Mother -- Mr. Velasquez's mother and himself.

3 Q. While in the same house?

4 A. Yes. That is the impression that I get, as maybe like
5 talking from room to room.

6 One of the things that -- I had an opportunity to visit
7 with Mr. Velasquez's mother and just talk to her. And one of
8 the things that she advised me with regards to her inability to
9 control Mr. Velasquez's -- his addiction to phones and
10 electronic devices, that she will try to talk to him, and he
11 will be eating -- for example, eating breakfast. And he can't
12 put the phone down and answer -- have a conversation,
13 discussion with him; that he is completely absorbed into
14 this -- into his electronics, into his phone. She cannot have
15 him put it down; that he is constantly on his computer.

16 And when we -- when law enforcement -- at the time of the
17 initial meeting between law enforcement and Mr. Velasquez at
18 the home, Mrs. Velasquez and Alejandro were present, and father
19 was away. He was at the worksite.

20 And when agents approached Mr. Velasquez, Mr. Velasquez
21 right away said, Is this about the computers? Is this about
22 the electronics?

23 He knew himself. So the parents had a very difficult time
24 getting Mr. Velasquez to pull himself away from his electronic
25 devices.

Freddie Miller - Cross

1 Q. How many electronic devices does he have?

2 A. There are numerous in the home. I -- as I spoke with
3 Mrs. Velasquez, I had her -- we went through each electronic
4 device, various laptops and phones that were present in the
5 house. There were numerous.

6 And she advised -- she pointed out the picture -- excuse
7 me -- the computer that Mr. Velasquez used primarily, which was
8 a desktop computer, that was situated on a desk with a
9 gaming -- kind of a gamer-style chair was pulled up to that.
10 We went through all the other electronic devices.

11 The only other computer that she indicated that
12 Mr. Velasquez had approached -- or had access to was a laptop
13 computer that was issued by a local college. The rest, she
14 said he -- either they were nonoperational or that he did not
15 have access to those computers. They were mom's computers and
16 -- or the sister's electronic device, and they were password
17 protected.

18 Q. So how many items did you seize?

19 A. I am aware of the seizure of the cellphone and of the
20 desktop computer. And there were -- there were additional
21 devices. I'm not certain as far as the number. I did not
22 review the inventory. I have not had the opportunity to review
23 that. But I know we seized the computer that he had primary
24 access to, that he used primarily, and, of course, his
25 cellphone.

Freddie Miller - Cross

1 Q. And are the forensics finished on those devices?

2 A. No.

3 Q. Thus far, alleged child pornography has been found only on
4 the cellphone, correct?

5 A. So far, yes, ma'am.

6 Q. How many images were found?

7 A. I personally identified three images on the cellphone.

8 Q. Okay. And you said those were selfies?

9 A. No.

10 Q. I'm sorry. Excuse me. Screenshots.

11 A. Screenshots.

12 Q. You said they were screenshots.

13 A. They appear to be screenshots to me, yes.

14 One of those is a chat. The reason I know that it's from
15 the internet and it's a screenshot is one of those is a chat.
16 And it contains -- depicted on that -- on that image are three
17 windows. And they have, of course, the three images of the
18 sexual exploitation of these minors. And up above is the name
19 of another user. So that's how I can tell it was part of a
20 chat.

21 Q. Okay. But you don't know -- what has forensics shown about
22 those screenshots as far as where they came from?

23 A. Forensics has not been completed on the phone yet. Those
24 are images that I identified that were on the phone.

25 Q. Right. But there were no corresponding internet searches

Freddie Miller - Cross

1 on that phone, correct? In other words, you didn't find an
2 internet search that linked to the screenshot?

3 A. So forensics has not been done. All I'm able to view is
4 the actual images themselves. So the forensics will be able to
5 ascertain how the images were obtained, where they were
6 obtained from. That's not where I'm at on this -- on my
7 identification of the images. That has not been determined
8 yet.

9 Q. Okay. Earlier you talked about looking at past internet
10 searches, after you -- when you were looking at the phone.

11 A. Yes.

12 Q. And there were no internet searches that you found relating
13 to child pornography.

14 A. I saw a search -- a Google search, screenshot Google search
15 for pedophilia. I saw a screenshot of a -- of a search for
16 legal age of consent in different countries, legal age of
17 consent in various states. I remember specifically 14 years
18 old being one of the results of that -- of that search -- that
19 screenshot for that search.

20 I do remember a screenshot -- I don't know why, but he
21 would take screenshots -- a screenshot for a search for
22 indecent exposure.

23 Q. Like a legal definition, you mean?

24 A. Well, so if you can imagine like you're on your phone,
25 you're going to do a Google search. And you'll see the Google

Freddie Miller - Cross

1 banner up above, and then you'll see the search bar. So inside
2 the search bar, the term "pedophilia" and then the results down
3 below.

4 So I'll see the search bar and then like "indecent
5 exposure" and then the results down below; a search for "age of
6 consent" and then the results down below.

7 Q. And these are all screenshots?

8 A. They are.

9 Q. When you looked through the search history on the phone,
10 like you were talking about -- your investigation on the other
11 issue here, the investigation into the threat issue, you didn't
12 find any searches themselves on that phone? I understand what
13 you're saying about the screenshots. But you didn't find any
14 search history related to child pornography, correct?

15 A. We -- I have not done -- I have not conducted an
16 examination for search history on the phone yet. That'll be
17 part of the forensic examination.

18 Q. So did I misunderstand you when you were talking at the
19 beginning of direct examination about finding internet searches
20 relating to SAS?

21 A. Yes. Yes.

22 Q. Those were all screenshots?

23 A. They were screenshots.

24 Q. So you haven't looked at all --

25 A. And chats. Uh-huh.

Freddie Miller - Cross

1 Q. Okay. That was related to chats and screenshots?

2 A. Screen --

3 Q. So you haven't done any search history at all on the phone?

4 A. No, ma'am.

5 Q. All right.

6 A. Not a forensic search. All I've done is examine the images
7 contained on the phone.

8 Q. Okay. You do acknowledge that screenshots can be made by a
9 phone user, but they can also be texted or sent or messaged by
10 another person who did the search or took the photo and took
11 the screenshot, correct?

12 A. One more time.

13 Q. You do acknowledge, with screenshots, that they can be made
14 by a user of a phone, on an iPhone, the two clicks on either
15 side --

16 A. Right.

17 Q. -- or they can be received by someone through airdropping
18 on an iPhone, through texting, through messaging, through
19 taking screenshots off of somebody else's post, emailing a
20 screenshot, correct?

21 A. Yes. Uh-huh.

22 Q. So there are many ways that screenshots can be received on
23 a phone other than the user of that phone or someone whose
24 hands were around that phone actually making the screenshot,
25 correct?

Freddie Miller - Cross

1 A. Okay.

2 Q. Who else used this phone, that you were looking at?

3 A. Nobody that I'm aware of. The phone, as I mentioned, as
4 was told to me, was password protected. And Mr. Velasquez
5 turned the phone over already open. He opened it himself and
6 handed it to law enforcement.

7 Q. Okay. So you're not sure who else used the phone?

8 A. (Inaudible).

9 Q. His mother didn't talk to you about passwords? I mean,
10 actually the passwords linked to any of the many devices you
11 found in the home.

12 A. I did not ask her for the passwords to the other devices
13 that were hers.

14 Q. Did you find evidence of domestic violence between
15 Mr. Velasquez's parents in this investigation?

16 A. No.

17 Q. Did you record the conversations you had with family
18 members?

19 A. No, ma'am.

20 Q. Did any other law enforcement officer record the
21 conversations with family members?

22 A. Not that I'm aware of.

23 Q. No body cams or audio recordings?

24 A. There were body cams present, but I am not aware that those
25 body cams were part of the interview. They were local law

Freddie Miller - Cross

1 enforcement officers, uniformed officers that were present for
2 purposes of just enabling or allowing the family to see that --
3 just for presence purposes and so that they would not be
4 concerned that we were not, in fact, law enforcement, because
5 we operate in plainclothes. So we did have uniformed officers
6 present. Just -- I can't recall if it was SAPD or
7 Bexar County, but uniformed division, and they did have --

8 Q. Body cams.

9 A. -- body cams, yes.

10 Q. But FBI didn't have body cams?

11 A. No.

12 MR. STEPHENSON: Your Honor, I object. There's no
13 relevance to probable cause here. This isn't a fishing
14 expedition for discovery.

15 THE COURT: Well, I think she got her answer. Let's
16 move on.

17 BY MS. ROTH:

18 Q. Going to the May 2022 tip that FBI received, I just wanted
19 to understand, you talked about a conversation that you alleged
20 occurred between Mr. Velasquez and someone else?

21 A. Yes.

22 Q. Was that someone else law enforcement or another individual
23 not law enforcement?

24 A. I'm very certain it was another individual not law
25 enforcement.

Freddie Miller - Cross

1 Q. And I'm not going to ask you for the identity, but have
2 officers uncovered the identity of that person?

3 A. No, not to this -- but we're in the process of doing that.

4 Q. I want to talk specifically about the residence. You said
5 that Mr. Velasquez lived in home with his father, mother and
6 12-year-old sister?

7 A. Yes.

8 Q. Anybody else living in the house?

9 A. Not that I'm aware of.

10 Q. There's no evidence of abuse, physical or sexual, by
11 Mr. Velasquez to any family member; is that correct?

12 A. By "Mr. Velasquez" are you referring to Alejandro?

13 Q. Yes.

14 A. No.

15 Q. And you talk about texts showing a preference for females
16 13 to 15 years old.

17 A. Yes.

18 Q. But the only photos you found, that you allege to be child
19 pornography, were of two- to five-year-olds, correct?

20 A. Correct.

21 Q. And there's no evidence of Mr. Velasquez contacting an
22 individual at the elementary school; is that correct?

23 A. Just the selfie that I -- that I mentioned earlier.

24 Q. The -- oh.

25 A. The selfie in front of the school, which is described as

Freddie Miller - Cross

1 "LatinoGroomer Moment," with the children in the background of
2 the elementary school.

3 Q. When you described that, I was imaging that the children
4 depicted did not know they were having a photo taken of them;
5 is that correct?

6 A. That's correct.

7 Q. Okay. So what I'm talking about right now is any evidence
8 of actual contact between Mr. Velasquez, who's -- what? 18
9 years old?

10 A. Yes.

11 Q. -- and anybody under 17.

12 A. There are multiple chats. The solicitation that I
13 testified earlier of Mr. Velasquez --

14 Q. That's the May 2022 incident you were describing?

15 A. Yes.

16 Q. Okay.

17 A. So the solicitation of someone that is indicating that
18 they're not 18 years old yet and they're far away from being 18
19 years old. That is an example.

20 There are multiple chats in which the -- Mr. Velasquez is
21 speaking or texting or chatting with whom he believes are
22 minors, females, being very complimentary to them and kind of
23 following that groomer mentality.

24 Q. And, again, I won't be asking for any identification. But
25 have you identified the people on the other end of the chat?

Freddie Miller - Cross

1 A. Not yet.

2 Q. What site were those chats on?

3 A. I am not 100 percent certain, as they're screenshots. And
4 sometimes content could be cut out.

5 Q. These are screenshots of the chats? So you didn't actually
6 view chats. You viewed screenshots of chats?

7 A. Screenshots of chats. Uh-huh.

8 Another agent whom I have collaborated with very closely,
9 she actually reviewed chats herself. And she advised me that
10 Mr. Velasquez -- that he indicates in his chats that he has a
11 preference for girls that are 14 and 15, based on the fact that
12 he himself is very young looking.

13 In a chat he indicates that -- so he's very young looking.
14 He's very anxious to get out of his house and live at another
15 location away from his parents where he will not pay rent.
16 That is all part of the same chat or text stream.

17 Q. And all of these that you're describing are screenshots of
18 chats?

19 A. Yes. Screenshots but also actual chats. What I just
20 described was a chat that was reviewed by another agent.

21 Q. I'm just a little confused. Okay?

22 A. So there's both. There's -- we have images, screenshots of
23 chats, and there are also chats that were also extracted as
24 part of the image that was extracted from the phone. And she
25 reviewed those, and I reviewed images. And so they're both --

Freddie Miller - Cross

1 Q. Okay. And who's this "she"? Is that Jessica Stone or
2 someone else?

3 A. The case agent, Jessica Stone. Uh-huh.

4 Q. So let me just make sure I understand. The computer
5 forensics are not done, but Jessica Stone reviewed some actual
6 chats, not just screenshots of chats?

7 A. That's correct.

8 Q. And those were extracted from a computer or from the phone?

9 A. From the phone.

10 Q. But we don't have those here today, correct? Correct? You
11 haven't seen those?

12 A. I have seen the screenshots that I -- that I reviewed. I
13 have not seen the actual texts --

14 Q. Okay.

15 A. -- chats themselves.

16 Q. And you don't know through what app that --

17 A. What platform? No.

18 Q. Now, speaking of Agent Stone, she mentioned to
19 United States Pretrial Services that there were no aggravating
20 circumstances involving Mr. Velasquez's arrest. You agree with
21 that?

22 A. Yes.

23 Q. You agree that he was very cooperative with law
24 enforcement?

25 A. I have been told that he was.

Freddie Miller - Cross

1 Q. You weren't at the scene?

2 A. No, ma'am. This is the first time that I've seen
3 Mr. Velasquez.

4 Q. My remaining questions have to do with the allegation about
5 interstate threats.

6 No firearms were located in the house or on Mr. Velasquez
7 or anywhere in this investigation, correct?

8 A. No, ma'am.

9 Q. And you said it was a round-trip ticket purchased from
10 Austin to Florida?

11 A. Yes, ma'am.

12 Q. What happened to that ticket?

13 A. Mr. Velasquez canceled his flight the night before he
14 was -- he was to depart July the 22nd. He canceled it during
15 the night -- late in the night of the 21st.

16 Q. How long was the post that you talked about on direct and
17 in the complaint -- how long was that post up?

18 A. Law enforcement became aware of the post on --

19 Q. The 19th, right?

20 A. The 19th. Yeah.

21 Q. Okay. And you said -- you said it was up on the 18th?

22 A. It was posted the 18th.

23 Q. Okay.

24 A. Uh-huh.

25 Q. When was it taken down?

Freddie Miller - Cross

1 A. I don't know that it was taken down. For all I know, it
2 might still be up.

3 Q. "Still be up"?

4 A. Yes.

5 Q. In any event, it was less than 24 hours from the posting to
6 when law enforcement discovered it?

7 A. Yes. Approximately.

8 Q. You talked about the post being known to SAS -- an SAS
9 official?

10 A. Yes.

11 Q. And you talked about what appears to be three responses to
12 the post; is that correct?

13 A. There was responses after that post. So the post was --
14 Mr. Velasquez placed the post. And then subsequent to that,
15 there were individuals that started inquiring about the post.
16 They had concerns about the post.

17 Q. Three, right?

18 A. There were -- there were a few. I'd have to take a look at
19 the post itself, if you'll give me a moment.

20 Q. The complaint on Page 2 shows three.

21 A. Yes.

22 Q. In addition to the three posts shown on Page 2 of the
23 complaint, the three responses and the one SAS official who
24 became aware of the post, no one else read the post?

25 A. Looking at this picture, I see the three responses to the

Freddie Miller - Cross

1 post. I'm not aware of anyone else that read that post, other
2 than the SAS individuals. Their social media liaisons
3 obviously read the post. They saw the post. And that's why
4 they contacted Tampa Bay police and SAPD both. So they read
5 the post as well. So --

6 Q. Okay. So maybe -- I said one SAS official because that's
7 what I understood. But maybe there was more than one SAS
8 official?

9 A. Possibly.

10 Q. You don't know?

11 A. I don't know. I don't know.

12 Q. Okay.

13 A. But what I can say is that this post was not a private
14 post. It was a post that was in an open Instagram forum. And
15 that's how various individuals, to include the SAS social media
16 liaison individuals, became aware of it and law enforcement
17 became aware of it as well, because it was in -- it was not a
18 private post. It was an open --

19 Q. Okay.

20 A. -- Instagram post.

21 Q. Okay. Do you know the time when SAS officials -- you said
22 when FBI contacted SAS, their officials already knew and had
23 already contacted both SAPD and Tampa police.

24 A. They had, yes.

25 Q. Do you know when approximately they found that post?

Freddie Miller - Cross

1 A. I don't. It was -- it was prior -- I know it was prior to
2 us -- to the FBI contacting them.

3 Q. Which was on the 19th?

4 A. It would have been in and around the 19th.

5 Q. Okay. What is SAS's ideology?

6 A. SAS, the Student Action Summit, is a conservative group,
7 obviously political. And the purpose of this conference was to
8 provide individuals that are like-minded conservatives an
9 opportunity to hear from a variety of speakers.

10 Q. Okay.

11 A. What I recall with regards to SAS -- now that you're asking
12 me this, I recall another meme in which -- and I'm paraphrasing
13 the meme. But it said, Secret Service to President Donald
14 Trump: We have received a threat from the LatinoZoomer. Your
15 speech has now been canceled.

16 And so that was in reference to this SAS conference.

17 Q. And that was a post by whom?

18 A. All I saw was the meme. It's just a screen capture of the
19 meme itself. It wasn't a chat or a text. It was just the meme
20 itself.

21 Who created the meme, I'm not aware of. But I do know that
22 that individual, the LatinoZoomer, was associated with a
23 perceived threat at the conference directed towards President
24 Trump.

25 Q. President Trump was scheduled to speak at SAS?

Freddie Miller - Cross

1 A. He was. He did.

2 Q. Mr. Velasquez is accused of making -- of threatening
3 interstate communication that is this one post; is that
4 correct? It's one post that we're talking about?

5 A. Yes, ma'am.

6 Q. And you said that you did surveillance as part of this and
7 some research into, I presume, him and other aspects of this
8 case, correct?

9 A. Yes, ma'am.

10 Q. You didn't find any direct threat by Mr. Velasquez to
11 another person, correct?

12 A. The threat that we observed was this -- was this -- a
13 threat to individuals at SAS. And as you look at the responses
14 to this -- to this post, the -- Mr. Velasquez, the
15 LatinoZoomer, he says, Good afternoon, LatinoZoomer bros.
16 Who's going to SAS? Asking the question, who's going to be
17 there, who else is going to be in attendance.

18 And that's when this other individual chimes in and says,
19 I've alerted the FBI.

20 Q. Okay. And that's -- you're reading from Page 2 of the
21 probable cause affidavit?

22 A. Yes, ma'am.

23 Q. So I'm not trying to be technical here. I'm just trying to
24 understand whether this case is about this particular post or
25 whether there's any other information that you have or believe

Freddie Miller - Cross

1 that Mr. Velasquez did. In other words, in this case are we
2 talking about this post that you're referencing on Page 2 of
3 the probable cause affidavit?

4 A. This is the post that initiated our investigation.

5 Q. Right.

6 And so far have you found any other threat at all, whether
7 it's an in-person threat, a posted threat? Any other alleged
8 threat?

9 MR. STEPHENSON: Your Honor, I object. This is the --
10 part of the complaint. This is the only threat alleged in the
11 complaint. Anything outside of that would be outside of the
12 scope of probable cause.

13 MS. ROTH: It does go to dangerousness. Maybe the
14 government would be asking this, but I'm interested in knowing
15 before I make an argument to you.

16 THE COURT: (Inaudible) can answer it.

17 THE WITNESS: Can you repeat the question, please?

18 MS. ROTH: Yes.

19 BY MS. ROTH:

20 Q. Is there any other threat, in all of your investigation
21 that relates in any way to Mr. Velasquez, that you're alleging
22 he might have made, other than the threat that's in the
23 affidavit here and that's alleged in the complaint?

24 A. What I have observed -- and, of course, everything has to
25 be taken into totality, into context. What I have observed is

Freddie Miller - Cross

1 Mr. Velasquez's affiliation or inclination towards mass
2 shooters. I have observed searches for mass shootings that
3 have occurred in '21 -- 2021, 2022. I take, for example, the
4 most recent, the July 4th parade shooting, searches for that
5 individual.

6 Of course, we've discussed Elliot Rodger. There's been
7 also searches for the Christchurch shooter. Also, I can recall
8 four -- I don't know all their names -- but four or five mass
9 shootings that have occurred like within the last few years and
10 Mr. Velasquez researching these individuals.

11 And so when you take everything into context, the totality,
12 that's the behavior, the inclination, the interest that I have
13 been able to observe that leads -- that leans into this initial
14 post.

15 Q. Yes.

16 I understand your view, and you made that very clear on
17 direct examination as well.

18 But then I'm going to interpret that as an answer of no;
19 that you have found no other evidence of an additional threat
20 in addition to this one that you're alleging, correct?

21 A. This is the only -- this is the threat that initiated the
22 entire investigation and the only one we've uncovered so far
23 that is a direct threat.

24 Q. Thank you.

25 You said that agents spoke with Mr. Velasquez. They

Freddie Miller - Cross

1 recorded that conversation?

2 A. I am not -- I don't think so. I am not certain.

3 Q. Who questioned him?

4 A. Special Agent Jessica Stone, FBI agent, and Task Force
5 Officer Taylor Davis, an agent assigned to the United States
6 Secret Service, on detail to the JTTF.

7 Q. You didn't find any -- you said you found numerous
8 electronic devices in the home. You didn't find anything other
9 than standard issue or readily available laptops, cellphones?
10 No homemade computers, correct?

11 A. There was a computer that was there, that was in
12 Mr. Velasquez's bedroom, that Mrs. Velasquez indicated that he
13 was building or repairing for her.

14 Q. "Repairing for her"?

15 A. Building or repairing for her. And it was a computer that
16 was not functional at the time. But she indicated that he was
17 working on the computer.

18 Q. Okay. And she identified with that as being hers?

19 A. She did. Uh-huh.

20 Q. Any of the laptops unusual in any way, something that you
21 or I couldn't just go and buy?

22 A. No.

23 Q. And the desktop that you seized from Mr. Velasquez, same
24 thing?

25 A. It didn't appear to me to be like the type -- the type of

Freddie Miller - Cross

1 computer that you would go and buy at a brick and mortar store,
2 like a -- like a Dell or an HP desktop. To me it looked like
3 something that a gamer would build.

4 I do recall it being -- having a very large case. And if I
5 remember correctly, it had like an open -- like a window panel
6 that I've seen, that gamers, when they build their own
7 computers or have somebody build for them, that it's specially
8 built to handle, I guess, the gaming -- the power in a computer
9 needed to participate in all these -- the gaming devices,
10 that's the description of the desktop that I saw.

11 Q. What's the brand name on that?

12 A. Like I say, it wasn't -- it's not -- to me it didn't appear
13 to be something that you would purchase at a brick and mortar
14 store. It looked like it was something that somebody put
15 together or built.

16 Let me put it this way. Way beyond my scope. And I have
17 been involved in computer crimes for a few years. So I would
18 not be able to do that. But I don't recognize it as something
19 you just go up and buy at the store.

20 Q. Okay.

21 A. Uh-huh.

22 Q. Have you ever built a computer?

23 A. I never have.

24 Q. I have three questions about incel.

25 A. Okay.

Freddie Miller - Cross

1 Q. Was Elliot Rodger the first one to use that term?

2 A. I don't know. I know that since the incident with Elliot
3 Rodgers, he has become the incel icon. And so whenever -- he's
4 become very synonymous with this ideology and this movement.

5 Q. The way you described it made me think that it's
6 exclusively heterosexual. Is that true?

7 A. I believe it mostly is. My understanding, primarily males,
8 young males frustrated with their inability to have
9 relationships or sexual relations with women, which also -- the
10 ideology also lends itself towards envy towards men as well,
11 men who are able to have these relationships with these women.
12 So it's two pronged.

13 Q. And then, finally, are they organized exclusively online,
14 or is there no particular organization?

15 A. I don't believe there to be any specific organization. At
16 least, I have not -- I have not observed any.

17 What I do know is that this is a movement, an ideology that
18 has, in these recent -- these last years, has gained a
19 momentum, especially in this younger generation, in the social
20 media era. And in the last few years there have been eight
21 mass casualty events where individuals who self-identified as
22 incels committed acts. And if I remember correctly,
23 approximately 61 individuals in the last few years have been
24 murdered and victims of incels.

25 MS. ROTH: I don't have any further questions, Your

1 Honor.

2 THE COURT: Thank you.

3 Any cleanup, counsel?

4 MR. STEPHENSON: No redirect, Your Honor. Thank you.

5 THE COURT: Okay. Thank you, sir. You may step down.

6 MR. STEPHENSON: Your Honor, I can proffer from the
7 pretrial services report, or I can call the officer. I don't
8 know if the Court has a preference.

9 THE COURT: Proffer's just fine with me.

10 Ms. Roth, any --

11 MS. ROTH: It's also fine with me.

12 THE COURT: Okay.

13 MR. STEPHENSON: Thank you, Your Honor.

14 Were the government to call -- the government to call
15 Officer Ramos, she would testify that Agent Stone estimated the
16 defendant's level of sophistication and knowledge with
17 internet-connected devices to be as -- a nine out of ten on a
18 scale of one to ten.

19 Pretrial services did deem Mr. Velasquez -- I believe
20 that's a reference to Mr. Velasquez's father -- as a suitable
21 third party custodian. But U.S. pretrial services does not
22 deem Mrs. Velasquez a suitable third party custodian.

23 Additionally, the residence, referring to Mr. Velasquez's
24 residence, is located on an adjacent street, near Candlewood
25 Elementary and Candlewood Clubhouse for boys and girls. If

1 allowed to reside in this home, the defendant must pass the
2 school and club upon entering and exiting the residential
3 neighborhood. U.S. pretrial services does not assess the
4 residence as suitable.

5 The defendant's parents did not present any alternative
6 addresses should the defendant be released on bond. Therefore,
7 a suitable residence has not been provided and/or assessed by
8 U.S. pretrial services.

9 And then, finally, Your Honor, the recommendation from
10 pretrial services that there is no condition or combination of
11 conditions that will reasonably assure the appearance of the
12 defendant as required and the safety of the community.

13 THE COURT: Okay. Thank you. That's the government's
14 case, I take it?

15 MR. STEPHENSON: That is, Your Honor.

16 THE COURT: Okay. Ms. Roth, any evidence that you'd
17 like to introduce to inform either of these two issues?

18 MS. ROTH: Not at this time, Your Honor.

19 THE COURT: Okay. And would you like to be heard in
20 argument on probable cause, Ms. Roth?

21 MS. ROTH: If Your Honor finds probable cause, then
22 I'd like to argue about the bond conditions, Your Honor.

23 THE COURT: Okay. But you don't want to argue
24 probable cause?

25 MS. ROTH: No, Your Honor.

1 THE COURT: Okay. All right. Well, let me just
2 initially then establish for the record that the evidence
3 establishes probable cause to believe an offense has been
4 committed and that the defendant committed the offense. Based
5 on the credible and reliable testimony that you heard here,
6 there's probable cause with respect to each of the two charged
7 offenses.

8 MS. ROTH: Your Honor, are they doing work on the --

9 THE COURT: I think -- I think that is construction
10 sounds that we're hearing. Hopefully that'll cease. We'll
11 figure out what's going on. I think the security's looking at
12 it.

13 With respect to the 875(c) charge, there was evidence of a
14 transmission of a communication containing a threat to injure
15 the person of another. And with respect to the other charge,
16 there is sufficient evidence to establish probable cause that
17 the defendant knowingly possessed items containing images of
18 child pornography; that the material was produced using
19 materials that had been used or in or affecting interstate
20 commerce, including by a computer or a cellphone; and that the
21 defendant, when he possessed the material, knew the material
22 was pornography.

23 It is a totality of the circumstances determination, as is
24 probable cause. And that informs these elements, in
25 particular, with respect to the second offense. The evidence

1 about the grooming activities and the other selfies and other
2 material like that informs, in particular, that third element
3 regarding knowledge.

4 With that, I'm going to order, Mr. Velasquez, that you
5 appear for further proceedings in the district court. I think
6 I referred to you as Mr. Gomez earlier. And I apologize if you
7 prefer to go by Mr. Velasquez.

8 With that, the evidence -- or the issue that's now before
9 the Court is the issue of detention. We've heard the evidence
10 informing the detention question. Let me just explain for you,
11 Mr. Velasquez, briefly what the Court's looking at here.

12 There's a statute that's called the Bail Reform Act. That's
13 the statute that governs whether and to what extent somebody
14 can be released on bond pending their trial on charges.

15 The defendant, you, are entitled to the presumption of
16 innocence on those underlying charges. And nothing that takes
17 place in this hearing should be construed to affect that
18 presumption. That said, the Court takes into evidence, that
19 informs four factors that the Bail Reform Act provides for the
20 Court to consider. And those are the nature and circumstances
21 of the alleged offense, the weight of the evidence against the
22 defendant, the history and characteristics of the defendant and
23 the nature and seriousness of the danger to others or the
24 community.

25 In this case there is a rebuttable presumption that's in

1 place because of the nature of the child pornography charge
2 involving a minor victim. That presumption means that there's
3 a rebuttable presumption that no condition or combination of
4 conditions will reasonably assure the appearance of the
5 defendant and the safety of the community. The presumption can
6 be rebutted by the defendant producing some credible evidence
7 to rebut it.

8 With that, Mr. Stephenson, why don't I open it up to the
9 government for argument and further elaboration or
10 clarification or anything that I've just said.

11 MR. STEPHENSON: Thank you, Your Honor.

12 The government's argument for detention is focused on
13 dangerousness to the community, and particularly the child
14 pornography charges. I don't -- I don't dispute the pretrial
15 services issues with flight risk. It's just not the focus of
16 my argument.

17 So with that in mind, I'd like to focus on -- I think the
18 government adduced ample evidence that the defendant has child
19 pornography on his phone. That is obviously a very serious
20 charge, with great implications for the victims who are
21 exploited for child pornography. And particularly in light of
22 the additional grooming activities that the government brought
23 to light through Officer -- Agent Miller's testimony and his
24 proximity to the school, not only his physical proximity but
25 his -- the selfie that was described with the school in the

1 background -- his self-described status as a groomer; and that
2 he has apparently not just self-described himself as a groomer,
3 but he's taken actions in furtherance of that, referring to the
4 complaint prior this year where he seems to have engaged in a
5 chat where he had a picture of his genitals exposed to somebody
6 who identified to him as a minor.

7 To me, those -- that amounts to -- that shows an extreme
8 dangerousness to the community, one where the resulting harm to
9 victims is extremely great. And severity of the crime and the
10 ample evidence that we've given of his dangerousness to the
11 community mitigate for detention in this case.

12 THE COURT: Thank you, counsel.

13 Ms. Roth.

14 MS. ROTH: Thank you, Your Honor.

15 First, flight should not be considered an issue here. And
16 the pretrial -- I object to the pretrial services three reasons
17 for listing flight as an issue. The offense charged does not
18 raise any concern about flight by Mr. Velasquez were you to
19 order him released on bond.

20 The unsuitable living situation is deemed by pretrial
21 because of its proximity to the elementary school discussed.
22 But there are other places where he could be, including halfway
23 house. And even if he were to return to his parents' home, he
24 could be placed on electronic monitor, for instance, that would
25 be more than sufficient to address both the danger raised --

1 the issues raised by the government and any flight concerns.

2 But the housing situation itself is where he's been,
3 including for the approximately two weeks between the time that
4 the evidence discussed today was found by law enforcement and
5 Mr. Velasquez's arrest.

6 MR. STEPHENSON: Your Honor, I object to that. That's
7 not true, and it's not in the record.

8 MS. ROTH: Well, it's obvious from the PACER, frankly.

9 But in any respect, he's been there this whole time. So
10 he's been there, and there's just not a flight issue.

11 Regarding danger, you heard from the witness that the only
12 threats alleged by Mr. Velasquez is the post that's at issue
13 here. And that's after extensive investigation of him for a
14 month, for several weeks in July. The review of his
15 electronics, discussions with family members, surveillance work
16 with Tampa police and San Antonio police. And so we know that
17 we're dealing with one threat that was an Instagram post.
18 That's not belittling this serious threat that he's accused of.
19 But we don't see other threatening behavior from this
20 18-year-old man.

21 And so the danger that the government raises can be
22 addressed by ordering sex offender treatment, by ordering
23 electronic monitor and perhaps even personal counseling, which
24 is raised through some of the testimony that we heard today and
25 some of the items listed in the complaint, including

1 Mr. Velasquez's mother's concern that he has an addiction to
2 the internet and to electronic devices.

3 And so while the government's argument is based on the
4 evidence that was solicited from the witness today, it doesn't
5 rise to what Your Honor could not form conditions for. And I'm
6 asking that Your Honor release him on bond to his parents'
7 home.

8 The significance there is that his father talked
9 extensively with pretrial and agreed to be both a third party
10 custodian and a surety, and extensively discusses his
11 willingness to do that on Page 2 of the pretrial services
12 report. Pretrial found him suitable as a third party
13 custodian.

14 They mentioned that his mother is also willing to serve in
15 that capacity, but they did not deem her to be suitable. His
16 parents both reside in the home, and his father is deemed
17 suitable and is also -- both of them are willing.

18 So the parents speaking with pretrial services, the ability
19 to place an electronic device restriction or ban even, although
20 I'm not asking for that, but a restriction and monitoring of
21 electronic device use and also electronic monitoring of
22 Mr. Velasquez more than meets the concerns that are set forth
23 in the government's argument.

24 So we're requesting that bond, Your Honor.

25 THE COURT: Okay. First, addressing the presumption,

1 I find the defendant has presented evidence sufficient to rebut
2 the presumption, including, well, just the proposals that
3 Ms. Roth just outlined: The possibility of a suitable third
4 party custodian, monitoring, other restrictions to foreclose
5 internet access. All of that's sufficient to rebut the
6 presumption.

7 That means then that the Court is directed to consider
8 those four factors and evaluate whether a bond or release on
9 bond would be appropriate in the case. The government has the
10 burden with respect to dangerousness to demonstrate by clear
11 and convincing evidence that there are no conditions or
12 combinations of conditions that the Court could impose to
13 reasonably assure the safety and -- of any person or the
14 community.

15 And, really, that's the emphasis here, is that this is a
16 totality of the circumstances inquiry here. These are two --
17 taken individually, these are two extremely serious charges
18 involving alleged conduct that is deeply concerning.

19 With respect to the pornography charge, there was evidence
20 today of communications, solicitation of actual contact or
21 interaction with somebody who identified as a minor. There's
22 an elementary school in close proximity. There's no proposed
23 location for supervision that's suitable to pretrial services,
24 even though there is a custodian. And there is just, frankly,
25 in all of the evidence, the totality of the evidence, a pattern

1 of sort of nihilistic behavior or ideology that just reflects
2 an extremely concerning likelihood that conditions could or
3 would be ignored or circumvented, given the nature of the
4 stakes, particularly on the -- on the pornography issue, but
5 also with respect to these threats.

6 Again, the charge here is -- the 875 charge is a charge
7 relating to the threat, not to any actual violence undertaken.
8 But just given, again, the totality of evidence here, the
9 picture painted is one that's deeply concerning and one in
10 which there are just no set of conditions that would reasonably
11 assure the safety of the community.

12 So I'm going to order that the defendant be detained due to
13 a danger to the community. The government has met its burden
14 to show by clear and convincing evidence that danger is
15 presented.

16 Anything further, Mr. Stephenson?

17 MR. STEPHENSON: Nothing further, Your Honor. Thank
18 you.

19 THE COURT: Thank you, sir.

20 Ms. Roth, anything further from you?

21 MS. ROTH: No, Your Honor. Thank you.

22 THE COURT: Okay. That's all that I have. We'll go
23 off the record. Actually, I'll step off briefly. But we've
24 got another hearing, so I'll be back shortly.

25 (12:03 p.m.)

-oOo-

I, court approved transcriber, certify that the foregoing
is a correct transcript from the electronic sound recording of
the proceedings in the above-entitled matter.

Date: 9/11/2022 /s/ Chris Poage
Approved Transcriber